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PATENT &amp; TRADEMARK OFFICE

Attorney Docket No.: 003997P007

Patent

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
Han C. Wen, et al.

Serial No.: 09/846,452

Filed: April 30, 2001

For: METHOD OF ACCELERATING TCP FLOWS  
IN COMMUNICATION NETWORKS WITH  
DYNAMIC CONTROL

Examiner: Duong, Duc T.  
Art Unit: 2663

Assistant Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION UNDER 37 C.F.R. § 1.182 TO WITHDRAW THE NOTICE OF  
ABANDONMENT (ALTERNATIVELY, PETITION UNDER 37 C.F.R. § 1.137(a) TO  
REVIVE)

Sir:

Applicants hereby petition under 37 C.F.R. § 1.182 to withdraw the abandonment of this patent application.

It is respectfully submitted, however, that a timely response to the Office Action mailed on January 12, 2006 from the U.S. Patent and Trademark Office ("PTO") was deposited with U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on May 12, 2006 and was addressed to the Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450.

"Express Mail" mailing label number EV839870631US

Date of Deposit May 17, 2006

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450.

Sandra Espinoza

(Typed or printed name of person mailing paper or fee)

(Signature of person mailing paper or fee)

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Enclosed is a copy of the Amendment that was filed with the PTO on May 12, 2006.

Applicants' believe that this abandonment was a mistake of the PTO. The PTO mistakenly mailed a Notice of Abandonment on May 3, 2006 with respect to patent application number 09/846,452. This Notice of Abandonment was totally erroneous because an Office Action had been mailed by the PTO on January 12, 2006, having a shortened statutory period for reply set to expire on April 12, 2006 and a maximum statutory period for reply set to expire on July 12, 2006. Applicants had not expressly abandoned application number 09/846,452. Applicants did not abandon application number 09/846,452 in any way.

In accordance with 37 C.F.R. § 1.136(a), an applicant may extend the time period for reply up to the expiration of any maximum period set by statute, if a petition for an extension of time and the fee set in 37 C.F.R. § 1.17(a) are filed. In accordance with 37 C.F.R. § 1.135, a reply must be filed prior to the expiration of the period of extension to avoid abandonment of the application.

Given that applicants mailed on May 12, 2006 (1) an Amendment, (2) Petition for Extension Of Time Pursuant to 37 C.F.R. § 1.136(a) and (3) Fee Transmittal using the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R § 1.10, applicants respectfully submit that abandonment is in error.

Applicants therefore respectfully request reconsideration and withdrawal of the holding of abandonment of the above-identified patent application on the basis that there was in fact no abandonment.

Enclosed is a check for \$400.00 for the fee under 37 C.F.R. § 1.17(f) for this Petition. Applicant also requests a refund of the petition fee because no defect on the part of the applicants exists. If there are any additional charges, please charge Deposit

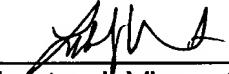
Account No. 02-2666. A duplicate of this Petition is enclosed for deposit account charging purposes.

Alternatively, applicants hereby petition under 37 C.F.R. § 1.137(a) that the application be revived given that the delay was unavoidable because applicants in fact sent a response as shown above and, through no fault of applicants, the response was apparently ignored by the PTO in favor of an erroneous Notice of Abandonment. There is simply no practical way for applicants to have avoided this holding of abandonment given that there was no basis whatsoever for the Notice of Abandonment by the PTO. If this petition under 37 C.F.R. § 1.137(a) is accepted, please charge Deposit Account No. 02-2666 for the fee necessary for this petition.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: May 17, 2006

  
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